

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

CHARLES COLEMAN,  
Plaintiff,

V.

**COLORADO TECHNICAL  
UNIVERSITY,**  
**Defendant.**

**C.A. No.:**

## COMPLAINT AND DEMAND FOR JURY TRIAL

## COMPLAINT

CHARLES COLEMAN (“Plaintiff”), by and through his attorneys,  
KIMMEL & SILVERMAN, P.C., alleges the following against COLORADO  
TECHNICAL UNIVERSITY (“DEFENDANT”):

# INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act, 47 U.S.C. §227.

## JURISDICTION AND VENUE

2. Jurisdiction of this Court arises under 28 U.S.C. § 1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant regularly conducts business in the Commonwealth of Pennsylvania, thus, personal jurisdiction is established.

1 4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

2 **PARTIES**

3 5. Plaintiff is a “person” as that term is defined by 47 U.S.C. §153(39).

4 6. Plaintiff is a natural person residing in Philadelphia, Pennsylvania  
5 19141.

6 7. Defendant is a “person” as that term is defined by 47 U.S.C. §  
7 153(39).

8 8. Defendant is a corporation with its principal place of business located  
9 at 4435 N. Chestnut Street, Colorado Springs, CO 80907.

10 9. Defendant acted through its agents, employees, officers, members,  
11 directors, heirs, successors, assigns, principals, trustees, sureties, subrogees,  
12 representatives, and insurers.

13 **FACTUAL ALLEGATIONS**

14 10. Plaintiff has a cellular telephone number that he has had for at least  
15 one year.

16 11. Plaintiff has only used this phone as a cellular telephone.

17 12. Beginning sometime during 2015 and continuing thereafter,  
18 Defendant placed repeated telephone calls to Plaintiff’s cellular telephone number.

19 13. Defendant used an automatic telephone dialing system, automated  
20 message and/or prerecorded voice when contacting Plaintiff.

1           14. Plaintiff knew that Defendant was using an automated telephone  
2 dialing system because the calls would begin with a pre-recorded voice before  
3 transferring the calls to live agents.  
4

5           15. Defendant's telephone calls were not made for "emergency purposes;"  
6 rather, Defendant was attempting to contact Plaintiff regarding their educational  
7 programs.  
8

9           16. Plaintiff knew that Defendant was calling him because he spoke to  
10 male and female callers who identified their name as the Defendant's during calls.

11           17. It was annoying and harassing for Plaintiff to be called on his cellular  
12 telephone with such frequency.  
13

14           18. Desiring to stop the repeated telephone calls, on more than one  
15 occasion in 2015 and 2016, Plaintiff spoke with Defendant's callers to advise them  
16 he no longer wanted to be contacted on his cellular telephone after the calls began  
17 in 2015, revoking any consent that may have been previously given to Defendant  
18 to contact him on this number.  
19

20           19. Once Defendant was aware that its calls were unwanted, its continued  
21 calls could have served no purpose other than harassment.  
22

23           20. Defendant heard and acknowledged Plaintiff's instructions to stop  
24 calling him by responding that they would "remove his number from their list."  
25  
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1           21.   However, Defendant refused to update its records to restrict telephone  
2 calls to Plaintiff's cellular telephone.

3           22.   After Plaintiff's requests to stop the calls were ignored by Defendant,  
4 he had no other viable alternative but to block calls from Defendant's phone  
5 numbers.  
6

7           23.   Upon information and belief, Defendant conducts business in a  
8 manner which violates the TCPA.  
9

10                   **DEFENDANT VIOLATED THE TELEPHONE CONSUMER**  
11                   **PROTECTION ACT**

12           24.   Plaintiff incorporates the forgoing paragraphs as though the same were  
13 set forth at length herein.

14           25.   Defendant initiated multiple automated telephone calls to Plaintiff's  
15 cellular telephone number.  
16

17           26.   Defendant's initiated these automated calls to Plaintiff using an  
18 automatic telephone dialing system.

19           27.   Defendant repeatedly placed non-emergency calls to Plaintiff's  
20 cellular telephone.  
21

22           28.   Under § 227(b)(3)(A) of the TCPA, a person or entity may bring a  
23 private cause of action in an appropriate court based on a violation of the TCPA or  
24 the regulations prescribed under the TCPA to enjoin such violation.  
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1           29. Under § 227(b)(3)(B) of the TCPA, a person or entity may bring a  
2 private cause of action in an appropriate court “to recover for actual monetary loss  
3 from such a violation, or to receive \$500 in damages for each such violation  
4 whichever is greater.”  
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6           30. Based upon the conduct of Defendant, Plaintiff avers that the  
7 enhancement of damages provided for by the TCPA allowing for Plaintiff to  
8 recover up to \$1,500 per call/violation be applied to calls placed.  
9

10          31. Defendant’s conduct violated § 227(b)(1)(A)(iii) of the TCPA by  
11 placing repeated calls using an automatic telephone dialing system to Plaintiff’s  
12 cellular telephone.  
13

14          32. Defendant’s calls to Plaintiff’s cellular telephone were not made with  
15 Plaintiff’s prior express consent.

16          33. Defendant’s acts as described above were done with malicious,  
17 intentional, willful, reckless, wanton and negligent disregard for Plaintiff’s rights  
18 under the law and with the purpose of harassing Plaintiff.  
19

20          34. The acts and/or omissions of Defendant were done unfairly,  
21 unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,  
22 lawful right, legal defense, legal justification or legal excuse.  
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1        35. As a result of the above violations of the TCPA, Plaintiff has suffered  
2 the losses and damages as set forth above entitling Plaintiff to an award of  
3 statutory, actual and trebles damages.  
4

5                                    **PRAYER FOR RELIEF**

6        WHEREFORE, Plaintiff, CHARLES COLEMAN, respectfully prays for a  
7 judgment as follows:  
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- 9                    a. All actual damages suffered pursuant to 47 U.S.C. §  
10                    227(b)(3)(A);  
11                    b. Statutory damages of \$500.00 per violative telephone call  
12                    pursuant to 47 U.S.C. § 227(b)(3)(B);  
13                    c. Treble damages of \$1,500.00 per violative telephone call  
14                    pursuant to 47 U.S.C. §227(b)(3);  
15                    d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3); and  
16                    e. Any other relief deemed appropriate by this Honorable Court.  
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19                                    **DEMAND FOR JURY TRIAL**

20        PLEASE TAKE NOTICE that Plaintiff, CHARLES COLEMAN, demands  
21 a jury trial in this case.  
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1 RESPECTFULLY SUBMITTED,

2 By: /s/ Amy Lynn Bennecoff Ginsburg  
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10 Attorney for Plaintiff

11 Dated: August 5, 2016  
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